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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,878	12/11/2000	Sture Roos	2483-25	2175

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NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

EXAMINER

ZHENG, EVA Y

ART UNIT	PAPER NUMBER
2634	7

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,878

Applicant(s)

ROOS, STURE

Examiner

Eva Yi Zheng

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/11/00 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4.5.6</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the copper pair cable 14 and 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show specific name labels as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of

the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a

whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

3. The disclosure is objected to because of the following informalities:

- a) On page 3, line 9, the recitation: "is to is to" should be changed to --is to--.
- b) On page 6, line 25, phrase: "net terminal 10,20" should be --net terminal 12, 22--.
- c) On page 7, line 5, phrase: "station side device 32" should be --station side device 34--.
- d) On page 8, line 1, phrase: "net terminal 10,20" should be --net terminal 12, 22--.
- e) On page 8, line 17, phrase: "net terminal 10,20" should be --net terminal 12, 22--.
- f) On page 8, line 20, phrase: "modem pool 40" should be --modem pool 50--.

Appropriate correction is required.

4. The abstract of the disclosure is objected to because:

- A) The title "Summary" should be changed to --Abstract--.
- B) On line 12, phrase: "(Fig 1 for publication)" should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Objections

5. Claims 9-16 are objected to because of the following informalities: recitation: "characterised in that" should be changed to --characterised wherein that--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 9-16 are rejected under 35 U.S.C. 102(e) as being anticipated by McHale et al. (6,014,431) (IDS)

a) Regarding claim 9, McHale et al. disclose an apparatus in a telecommunication system for providing access to telecommunication services to subscribers at user terminals (block 12 in Fig. 1), each of which being separately connected to at least one access point (block 500 in Fig. 10A) via high speed modems (30 in Fig. 1) and a communication network (54 in Fig. 10A), the at

least one access point (block 500 and 502 in Fig. 10A) comprising high speed modems with filters required, characterised in that

the access point modems are arranged in two groups (as shown in Fig. 10A), a pool of a plurality of high speed modems (block 510 in Fig. 10A); and multiple high speed modems with direct access (Col 16, L11-16); and

the required access point filters (block 508 in Fig. 10A) connected to the access point modems are arranged in a pool of a plurality of filters (Col 18, L 38-45); and

a control means (block 80 in Fig. 10A) is adapted to control modems (block 510 in Fig. 10A) and filters (block 508 in Fig. 10A) during establishment of a connection between the user terminals and the at least one access point (block 500 in Fig. 10A) from accessing the pool of modems to another access point of directly accessible modems whereby new access points are made available (Col 16, L21-30).

b) Regarding claim 10, McHale et al. disclose an apparatus in a telecommunication system, characterised in that

an access means (30 in Fig. 1) is provided with a second modem enabling initial installation with a control means (block 80 in Fig. 10A) to monitor the installation and establish a connection.

c) Regarding claim 11, McHale et al. disclose an apparatus in a telecommunication system, characterised in that

the control means (block 80 in Fig. 10A) is adapted to retrieve subscriber information to individualise the established connection (Col 8, L15-34).

d) Regarding claim 12, McHale et al. disclose an apparatus in a telecommunication system according to claim 8, characterised in that,

the pool of filters (block 532 and 530 in Fig. 10B) is connected directly to the station side (block 534 and 528 in Fig. 10B) of a first access node (block 500 in Fig. 10A).

e) Regarding claim 13, McHale et al. disclose an apparatus in a telecommunication system, characterised in that,

the pool of filters (block 532 and 530 in Fig. 10B) is connected in front of at least one line card connector of a second access node (502 in Fig. 10A) (Col 16, L17-20).

f) Regarding claim 14, McHale et al. disclose an apparatus in a telecommunication system, characterised in that,

a management system (block 128 in Fig 3) is provided to process retrieved additional user information whereby the established connection can be adapted according to user specifications (Col 10, L33-51).

g) Regarding claim 15, McHale et al. disclose a method in a telecommunication system for providing access to telecommunication services to subscribers at user terminals (block

12 in Fig. 1), each of which being separately connected to at least one access point (block 500 and 502 in Fig. 10A) via high speed modems (30 in Fig. 1) and a communication network (54 in Fig. 10A), the at least one access point (block 500 and 502 in Fig. 10A) comprising high speed modems with filters required, characterised by the steps of

transmission of a signal from an access means (54 in Fig. 10A) including user terminal identity to a control means (block 80 in Fig. 10A);

searching, by the control means (block 80 in Fig. 10A), for an available connection path for the access means at an access point;

creating, by the control means (block 80 in Fig. 10A), a bi-directional high speed data transmission path between the user terminal (block 12 in Fig. 1) and the at least one access point (block 500 and 502 in Fig. 10A) ; and

activating, by the control means (block 80 in Fig. 10A), the transmission path between the user terminal and the at least one access point (block 500 and 502 in Fig. 10A).

h) Regarding claim 16, McHale et al. disclose a method in a telecommunication system, further characterized by the steps of

monitoring, by the control means (block 80 in Fig. 10A), available access points in the pool of a plurality of high speed modems (Col 16, L21-30); and

transferring subscriber connections from one access point in the communication system to another access point; whereby access points in the pool of modems are made available for new subscribers (Col 16, L21-41).

Double Patenting

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

9. Claim 15 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 14 of copending Application No. 09,732,879. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eva Yi Zheng whose telephone number is 703-305-8699. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 703-305-4714. The fax phone number for the organization where this application or proceeding is assigned is 703-879-9306. **Any response to this action should be**

mailed to: Commissioner of Patents and Trademarks
Washington, D.C. 20231

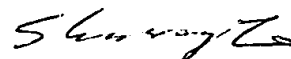
or faxed to: (703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Eva Yi Zheng
Examiner
Art Unit 2634

February 3, 2004



SHUANG LIU
PRIMARY EXAMINER